

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-CV11829 GAO

ROBERT S. STEPHENS,)
Plaintiff)
V.)
ROBERT MULHERN, individually)
and as Police Chief of the Town of)
Groton,)
PETER S. CUNNINGHAM,)
individually and as a Selectman for)
the Town of Groton,)
THOMAS D. HARTNETT individually)
and as a Selectman of the Town of)
Groton,)
DANN CHAMBERLIN, individually)
and as a Selectman of the Town)
of Groton,)
"JOHN DOE" and)
THE TOWN OF GROTON,)
Defendants.)

DEFENDANTS, ROBERT MULHERN, PETER S. CUNNINGHAM, THOMAS
D. HARTNETT, DANN CHAMBERLIN AND THE TOWN OF GROTON'S
OPPOSITION TO PLAINTIFF'S MOTION TO SET ASIDE ENTRY OF
JUDGMENT

The Defendants, Robert Mulhern, Peter S. Cunningham, Thomas D. Hartnett,
Dann Chamberlin and The Town of Groton, hereby oppose the Plaintiff's
Request to Set Aside the Entry of the Judgment on the grounds that such request
is unduly prejudicial and untimely. As further grounds, the Defendants state as
follows:

1. The Defendants filed a Motion to Dismiss the Plaintiff's complaint which motion is still pending before this Court if the case should be reopened and which motion the Plaintiff did not oppose.
2. The Defendants provided Automatic Disclosures in compliance with the Federal Rules of Civil Procedure. The Plaintiff never provided such required disclosures.
3. The Defendants propounded written discovery in this case. The Plaintiff never responded to such written discovery.
4. As a result of the Plaintiff's failure to comply with the Federal Rules and failure to comply with discovery requests, the Defendants filed a Motion to Compel such disclosures and responses to no avail.
5. As a result of the Plaintiff's failure to respond to any action taken by the Defendants in this case, the Defendants filed a Motion to Dismiss. Said motion was allowed by this Court on or about December 13, 2005.
6. It has been two months since the dismissal of this case by the Court, and the plaintiff only now seeks to have that dismissal set aside. The Plaintiff does not provide good cause as for the reasons that he failed to respond to the Defendants' discovery requests in the past and failed to comply with the Federal Rules of Civil Procedure.
7. As there are no good grounds for the Plaintiff's non-compliance and the Defendants have incurred significant costs and attorneys' fees to date in an attempt to have the Plaintiff respond, the Court should not allow the Plaintiff's motion to set aside the dismissal at this late date.

Wherefore, the Defendants respectfully request that this Honorable Court deny the Plaintiff's motion. Should the Court allow the Plaintiff to proceed, the Defendants request attorneys' fees and costs to date for the Defendants having to file Motions to Compel the Plaintiff to comply with the Federal Rules and outstanding discovery requests as well as costs incurred in the filing of this opposition.

Respectfully submitted,
DEFENDANTS,
By their attorneys,

/s/ Jeremy I. Silverfine
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